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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SYMETTRICA
ENTERTAINMENT, LTD., a
United Kingdom limited company,

Plaintiff,

V.

UMG RECORDINGS, INC., a
Delaware corporation,

Defendant.

AND RELATED COUNTERCLAIMS

Case No.: 2:19-cv-01192-CJC (KSx)

STIPULATED PROTECTIVE ORDER

1 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based
2 on the parties' Stipulated Protective Order ("Stipulation") filed on October 18,
3 2019, the terms of the protective order to which the parties have agreed are
4 adopted as a protective order of this Court (which generally shall govern the
5 pretrial phase of this action) except to the extent, as set forth below, that those
6 terms have been modified by the Court's amendment of paragraphs 5.2(b) and
7 7.3 of the Stipulation.

8
9 **AGREED TERMS OF THE PROTECTIVE ORDER AS ADOPTED AND**
10 **MODIFIED BY THE COURT¹**
11

12 1. A. **PURPOSES AND LIMITATIONS**

13 Discovery in this action is likely to involve production of confidential,
14 proprietary, or private information for which special protection from public disclosure
15 and from use for any purpose other than prosecuting this litigation may be warranted.
16 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
17 Stipulated Protective Order. The parties acknowledge that this Order does not confer
18 blanket protections on all disclosures or responses to discovery and that the protection
19 it affords from public disclosure and use extends only to the limited information or
20 items that are entitled to confidential treatment under the applicable legal principles.
21 The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
22 Protective Order does not entitle them to file confidential information under seal; Civil
23 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
24 will be applied when a party seeks permission from the court to file material under seal.

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27 ¹ The Court's additions to the agreed terms of the Protective Order are generally indicated in
28 bold typeface, and the Court's deletions are indicated by lines through the text being deleted.

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1 manner, and there is good cause why it should not be part of the public record of this
2 case.

3 4 2. DEFINITIONS

5 2.1 Action: This action, assigned Case No.: 2:19-cv-01192-CJC (KSx).

6 2.2 Challenging Party: a Party or Non-Party that challenges the
7 designation of information or items under this Order.

8 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
9 how it is generated, stored or maintained) or tangible things that qualify for protection
10 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
11 Statement. “HIGHLY CONFIDENTIAL INFORMATION” is information which
12 belongs to a Designating Party who has a good faith basis to believe that such
13 information, if known by the party to whom it is disclosed, would be inherently harmful
14 to the Designating Party’s business, privacy or other protected interests and, in
15 addition, would create a substantial risk of serious financial or other injury that cannot
16 be avoided by less restrictive means.

17 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
18 their support staff).

19 2.5 Designating Party: a Party or Non-Party that designates information or
20 items that it produces in disclosures or in responses to discovery as
21 “CONFIDENTIAL.”

22 2.6 Disclosure or Discovery Material: all items or information, regardless
23 of the medium or manner in which it is generated, stored, or maintained (including,
24 among other things, testimony, transcripts, and tangible things), that are produced or
25 generated in disclosures or responses to discovery in this matter.

26 2.7 Expert: a person with specialized knowledge or experience in a matter
27 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
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expert witness or as a consultant in this Action.

2.8 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.9 Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this Action.

2.10 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party, and includes support staff.

2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, House Counsel, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from

1 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
2 Material; and (3) any testimony, conversations, or presentations by Parties or their
3 Counsel that might reveal Protected Material.

4 Any use of Protected Material at trial shall be governed by the orders of the trial
5 judge. This Order does not govern the use of Protected Material at trial.

6
7 4. DURATION

8 Even after final disposition of this litigation, the confidentiality obligations
9 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
10 in writing or a court order otherwise directs. Final disposition shall be deemed to be
11 the later of (1) dismissal of all claims and defenses in this Action, with or without
12 prejudice; and (2) final judgment herein after the completion and exhaustion of all
13 appeals, rehearings, remands, trials, or reviews of this Action, including the time limits
14 for filing any motions or applications for extension of time pursuant to applicable law.

15
16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection.

18 Each Party or Non-Party that designates information or items for protection under this
19 Order must take care to limit any such designation to specific material that qualifies
20 under the appropriate standards. The Designating Party must designate for protection
21 only those parts of material, documents, items, or oral or written communications that
22 qualify so that other portions of the material, documents, items, or communications for
23 which protection is not warranted are not swept unjustifiably within the ambit of this
24 Order.

25 Mass, indiscriminate, or routinized designations are prohibited. Designations
26 that are shown to be clearly unjustified or that have been made for an improper purpose
27 (e.g., to unnecessarily encumber the case development process or to impose
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unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend") or "HIGHLY CONFIDENTIAL" (hereinafter "HIGHLY CONFIDENTIAL legend"), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL legend"

1 or “HIGHLY CONFIDENTIAL legend” to each page that contains Protected Material.
2 If only a portion or portions of the material on a page qualifies for protection, the
3 Producing Party also must clearly identify the protected portion(s) (e.g., by making
4 appropriate markings in the margins).

5 (b) for testimony given in depositions, Parties and deponents may, within
6 thirty (30) days after receiving a transcript of a deposition, designate pages of the
7 transcript (and exhibits thereto) as Confidential or Highly Confidential to the extent
8 the Party or deponent believes they contain material or information entitled to that
9 protection. Confidential or Highly Confidential information within the deposition
10 transcript may be designated only by sending a letter indicating the page and line
11 numbers of the deposition transcript that the Party or deponent designates as
12 Confidential and/or Highly Confidential to the party who took the deposition and to
13 the court reporter. Audiovisual recordings, irrespective of the manner or medium of
14 the recording, of depositions are deemed “Confidential” under this Stipulated
15 Protective Order and shall not be made public or otherwise exhibited or disclosed
16 except when, as and if played in open court or as may permitted by further order of the
17 court. If the Party or deponent believes an audiovisual recording of a deposition
18 contains material or information entitled to Highly Confidential protection, the Party
19 or deponent may designate the portions Highly Confidential by sending a letter within
20 thirty (30) days after receipt of the audiovisual recording, to the party who took the
21 deposition and to the videographer indicating by time code or by reference to the
22 deposition transcript the portion or portions of the audiovisual recording that the Party
23 or deponent designates as Highly Confidential. Until the expiration of the 30-day
24 period during which such designations may be made, both the transcript and any
25 audiovisual recording of the deposition will be treated as subject to protection as
26 Highly Confidential under this Stipulated Protective Order that the Designating Party
27 identify the Disclosure or Discovery Material on the record, before the close of the
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1 deposition all protected testimony. ~~In no event shall video of depositions be used for~~
2 ~~any purposes other than presenting evidence at trial.~~

3 (c) for information produced in some form other than documentary and for
4 any other tangible items, that the Producing Party affix in a prominent place on the
5 exterior of the container or containers in which the information is stored the legend
6 “CONFIDENTIAL.” If only a portion or portions of the information warrants
7 protection, the Producing Party, to the extent practicable, shall identify the protected
8 portion(s).

9 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
10 failure to designate qualified information or items does not, standing alone, waive the
11 Designating Party’s right to secure protection under this Order for such material. Upon
12 timely correction of a designation, the Receiving Party must make reasonable efforts
13 to assure that the material is treated in accordance with the provisions of this Order.

14 15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
17 designation of confidentiality at any time that is consistent with the Court’s
18 Scheduling Order.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
20 resolution process under Local Rule 37.1 et seq.

21 6.3 The burden of persuasion in any such challenge proceeding shall be on
22 the Designating Party. Frivolous challenges, and those made for an improper purpose
23 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
24 expose the Challenging Party to sanctions. Unless the Designating Party has waived
25 or withdrawn the confidentiality designation, all parties shall continue to afford the
26 material in question the level of protection to which it is entitled under the Producing
27 Party’s designation until the Court rules on the challenge.

1 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a Receiving
7 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
9 location and in a secure manner that ensures that access is limited to the persons
10 authorized under this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
12 otherwise ordered by the court or permitted in writing by the Designating Party, a
13 Receiving Party may disclose any information or item designated
14 “CONFIDENTIAL” only to:

15 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
16 as employees of said Outside Counsel of Record to whom it is reasonably necessary to
17 disclose the information for this Action;

18 (b) the officers, directors, and employees (including House Counsel) of the
19 Receiving Party to whom disclosure is reasonably necessary for this Action;

20 (c) Experts (as defined in this Order) of the Receiving Party to whom
21 disclosure is reasonably necessary for this Action and who have signed the
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23 (d) the court and its personnel;

24 (e) court reporters and their staff;

25 (f) professional jury or trial consultants, mock jurors, and Professional
26 Vendors to whom disclosure is reasonably necessary for this Action and who have
27 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

1 (g) the author or recipient of a document containing the information or a
2 custodian or other person who otherwise possessed or knew the information;

3 (h) during their depositions, witnesses, and attorneys for witnesses, in the
4 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
5 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
6 not be permitted to keep any confidential information unless they sign the
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
8 by the Designating Party or ordered by the court. Pages of transcribed deposition
9 testimony or exhibits to depositions that reveal Protected Material may be separately
10 bound by the court reporter and may not be disclosed to anyone except as permitted
11 under this Stipulated Protective Order; and

12 (i) any mediator or settlement officer, and their supporting personnel,
13 mutually agreed upon by any of the parties engaged in settlement discussions.

14 Unless otherwise ordered by the court or permitted in writing by the Designating
15 Party, a Receiving Party may disclose any information or item designated “HIGHLY
16 CONFIDENTIAL” only to those identified in Sections 7(a), (c)-(g) and (i), above, and
17 7(h) above to the extent counsel has a good faith belief that the witness currently has
18 or would be expected to have knowledge of the contents of the document, or of its
19 subject matter, and to no one else.

20 7.3 Audiovisual Recordings of Depositions. Audiovisual recordings,
21 irrespective of the manner or medium of the recording, of depositions are deemed
22 “Confidential” under this Stipulated Protective Order ~~and shall not be made public or~~
23 ~~otherwise exhibited or disclosed except when, as and if played in open court or as may~~
24 ~~permitted by further order of the Court.~~

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1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
2 OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation that
4 compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall
7 include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order
9 to issue in the other litigation that some or all of the material covered by the subpoena
10 or order is subject to this Protective Order. Such notification shall include a copy of
11 this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
15 the subpoena or court order shall not produce any information designated in this action
16 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before a determination by
17 the court from which the subpoena or order issued, unless the Party has obtained the
18 Designating Party’s permission. The Designating Party shall bear the burden and
19 expense of seeking protection in that court of its confidential material and nothing in
20 these provisions should be construed as authorizing or encouraging a Receiving Party
21 in this Action to disobey a lawful directive from another court.
22

23 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
24 IN THIS LITIGATION

25 (a) The terms of this Order are applicable to information produced by a Non-
26 Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
27 CONFIDENTIAL.” Such information produced by Non-Parties in connection with
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1 this litigation is protected by the remedies and relief provided by this Order. Nothing
2 in these provisions should be construed as prohibiting a Non-Party from seeking
3 additional protections.

4 (b) In the event that a Party is required, by a valid discovery request, to
5 produce a Non-Party's confidential information in its possession, and the Party is
6 subject to an agreement with the Non-Party not to produce the Non-Party's
7 confidential information, then the Party shall:

8 (1) promptly notify in writing the Requesting Party and the Non-Party
9 that some or all of the information requested is subject to a confidentiality agreement
10 with a Non-Party;

11 (2) promptly provide the Non-Party with a copy of the Stipulated
12 Protective Order in this Action, the relevant discovery request(s), and a reasonably
13 specific description of the information requested; and

14 (3) make the information requested available for inspection by the Non-
15 Party, if requested.

16 (c) If the Non-Party fails to seek a protective order from this court within 14
17 days of receiving the notice and accompanying information, the Receiving Party may
18 produce the Non-Party's confidential information responsive to the discovery request.
19 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce
20 any information in its possession or control that is subject to the confidentiality
21 agreement with the Non-Party before a determination by the court. Absent a court order
22 to the contrary, the Non-Party shall bear the burden and expense of seeking protection
23 in this court of its Protected Material.

24
25 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

26 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
27 Protected Material to any person or in any circumstance not authorized under this
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1 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
2 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
3 all unauthorized copies of the Protected Material, (c) inform the person or persons to
4 whom unauthorized disclosures were made of all the terms of this Order, and (d)
5 request such person or persons to execute the “Acknowledgment and Agreement to Be
6 Bound” that is attached hereto as Exhibit A.

7
8 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
9 PROTECTED MATERIAL

10 When a Producing Party gives notice to Receiving Parties that certain
11 inadvertently produced material is subject to a claim of privilege or other protection,
12 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
13 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
14 may be established in an e-discovery order that provides for production without prior
15 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
16 parties reach an agreement on the effect of disclosure of a communication or
17 information covered by the attorney-client privilege or work product protection, the
18 parties may incorporate their agreement in the stipulated protective order submitted to
19 the court.

20
21 12. MISCELLANEOUS

22 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
23 person to seek its modification by the Court in the future.

24 12.2 Right to Assert Other Objections. By stipulating to the entry of this
25 Protective Order no Party waives any right it otherwise would have to object to
26 disclosing or producing any information or item on any ground not addressed in this
27 Stipulated Protective Order. Similarly, no Party waives any right to object on any
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1 ground to use in evidence of any of the material covered by this Protective Order.

2 12.3 Neither the taking of, nor the failure to take, any action to enforce the
3 provisions of this Order; the failure to designate material as Confidential; nor the
4 failure to object to any designation shall constitute a waiver of any right to seek and
5 obtain protection or relief other than as specified in this Order or of any claim or
6 defense in this action or any other action including, but not limited to, the claim or
7 defense that any information is or is not proprietary to any Designating Party or
8 Challenging Party, is or is not entitled to particular protections, or that such information
9 embodies trade secrets of any Designating Party or Challenging Party. The procedures
10 set forth in this Order shall not affect the rights of the Parties to object to discovery on
11 any other valid grounds as asserted by the Parties and/or ruled upon by the Court by
12 noticed motion. This stipulation does not operate as a waiver of any of the Parties'
13 objections, arguments or rights as to any discovery requests or motions. No party will
14 argue that this stipulation constitutes a waiver of any kind or in any way supports their
15 position in any motion.

16 12.4 Filing Protected Material. A Party that seeks to file under seal any Protected
17 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
18 under seal pursuant to a court order authorizing the sealing of the specific Protected
19 Material at issue. If a Party's request to file Protected Material under seal is denied by
20 the court, then the Receiving Party may file the information in the public record unless
21 otherwise instructed by the court.

22 23 13. FINAL DISPOSITION

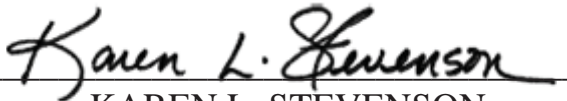
24 After the final disposition of this Action, as defined in paragraph 4, within 60
25 days of a written request by the Designating Party, each Receiving Party must return
26 all Protected Material to the Producing Party or destroy such material. As used in this
27 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
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1 summaries, and any other format reproducing or capturing any of the Protected
2 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
3 must submit a written certification to the Producing Party (and, if not the same person
4 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
5 category, where appropriate) all the Protected Material that was returned or destroyed
6 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
7 compilations, summaries or any other format reproducing or capturing any of the
8 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
9 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
10 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
11 attorney work product, and consultant and expert work product, even if such materials
12 contain Protected Material. Any such archival copies that contain or constitute
13 Protected Material remain subject to this Protective Order as set forth in Section 4
14 (DURATION).

15
16 14. Any violation of this Order may be punished by any and all appropriate
17 measures including, without limitation, contempt proceedings and/or monetary
18 sanctions.

19
20 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED:

21
22 DATED: October 22, 2019

23
24 
25 KAREN L. STEVENSON
26 UNITED STATES MAGISTRATE JUDGE
27
28

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____[print or type full name],
4 of _____[print or type full
5 address], declare under penalty of perjury that I have read in its entirety and understand
6 the Stipulated Protective Order that was issued by the United States District Court for
7 the Central District of California on _____[date] in the case of
8 _____

9 **[insert formal name of the case and the**
10 **number and initials assigned to it by the court]**. I agree to comply with and to be
11 bound by all the terms of this Stipulated Protective Order and I understand and
12 acknowledge that failure to so comply could expose me to sanctions and punishment
13 in the nature of contempt. I solemnly promise that I will not disclose in any manner
14 any information or item that is subject to this Stipulated Protective Order to any person
15 or entity except in strict compliance with the provisions of this Order. I further agree
16 to submit to the jurisdiction of the United States District Court for the Central
17 District of California for the purpose of enforcing the terms of this Stipulated
18 Protective Order, even if such enforcement proceedings occur after termination of
19 this action. I hereby appoint [print or type full name] of [print or type full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23
24 Date: _____

25 City and State where sworn and signed: _____

26 Printed name: _____

27 Signature: _____